

HEATHER COLEMAN,
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Plaintiff,)
)
vs.) **Case No. 15-04220-MDH**
)
CAROLYN W. COLVIN,)
Acting Commissioner of)
Social Security,)
)
Defendant.)

Before the Court is Plaintiff's appeal of the Commissioner's denial of her application for Social Security Disability Insurance Benefits and Supplemental Security Income. An Administrative Law Judge denied Plaintiff's claims and the Appeals Counsel subsequently denied Plaintiff's request for review of the ALJ's determination. Therefore, Plaintiff has exhausted her administrative remedies and the matter is now ripe for judicial review. The Court reviews the Commissioner's final decision pursuant to 42 U.S.C. §§ 1383(c)(3) and 405(g).

The Court’s role in reviewing an ALJ’s decision is to determine whether the “findings are supported by substantial evidence in the record as a whole.” *Page v. Astrue*, 484 F.3d 1040, 1042-43 (8th Cir. 2007), citing, *Haggard v. Apfel*, 175 F.3d 591, 594 (8th Cir.1999). “Substantial evidence is relevant evidence which a reasonable mind would accept as adequate to support the Commissioner’s conclusion.” *Id.* “The fact that some evidence may support a conclusion opposite from that reached by the Commissioner does not alone permit our reversal

of the Commissioner's decision." *Id.*, citing, *Kelley v. Barnhart*, 372 F.3d 958, 961 (8th Cir. 2004); and *Travis v. Astrue*, 477 F.3d 1037, 1040 (8th Cir. 2007). If the record contains substantial evidence to support the Commissioner's decision, the Court may not reverse the decision simply because substantial evidence exists in the record that would have supported a contrary outcome. *Krogmeier v. Barnhart*, 294 F.3d 1019, 1022 (8th Cir. 2002). In other words, the Court cannot reverse simply because it would have decided the case differently. *Id.*, citing, *Woolf v. Shalala*, 3 F.3d 1210, 1213 (8th Cir. 1993). Courts "defer heavily to the findings and conclusions of the Social Security Administration" and will disturb the Commissioner's decision only if it falls outside the "zone of choice." *Buckner v. Astrue*, 646 F.3d 549, 556 (8th Cir. 2011) (internal citations omitted). Further, the Court defers to the ALJ's determinations of the credibility of witness testimony, as long as the ALJ's determinations are supported by good reasons and substantial evidence. *Pelkey v. Barnhart*, 433 F.3d 575, 578 (8th Cir. 2006).

Analysis

Plaintiff argues the ALJ "seemingly rejected" the opinion of Dr. Lavender and that the RFC is not supported substantial evidence..

First, the Court has thoroughly reviewed the administrative record before the Court, including the medical records, hearing testimony, and the ALJ's opinion. The Court finds that the ALJ's RFC determination is supported by substantial evidence in the record as a whole and was within the available "zone of choice." The ALJ provided a lengthy analysis of the medical opinion evidence and properly addressed Plaintiff's own statements, as well as the additional testimony at the hearing. The Court gives great deference to the ALJ's determination as it falls within an acceptable "zone of choice" of the finder of fact.

Second, the Court will not disturb the ALJ's credibility determination. In finding Plaintiff's allegations not completely credible, the ALJ considered such things as Plaintiff's reported limitations, the objective medical evidence and medical opinions, Plaintiff's daily activities, and Plaintiff's work history. The Court finds the ALJ recognized the appropriate analytic framework, considered the appropriate factors, and gave good reasons for discrediting Plaintiff's testimony. See generally *Tucker v. Barnhart*, 363 F.3d 781, 783 (8th Cir. 2004) ("The ALJ is not required to discuss each *Polaski* factor as long as the analytical framework is recognized and considered."). Accordingly, the Court will defer to the ALJ's judgment. See *Whitman v. Colvin*, 762 F.3d 701, 707 (8th Cir. 2014) ("Questions of credibility are for the ALJ in the first instance" and "[i]f an ALJ explicitly discredits a claimant's testimony and gives a good reason for doing so, we will normally defer to that judgment.").

Finally, with regard to the ALJ's alleged error in incorrectly stating that the record did not contain "actual records" from Dr. Lavender, or that Dr. Lavendar never actually treated Plaintiff, the Court does not find a reversible error. See *Byes v. Astrue*, 687 F.3d 913, 917 (8th Cir. 2012) (To show an error was not harmless, plaintiff must prove the ALJ would have made a different determination if the error had not occurred.); citing, *Van Vickle v. Astrue*, 539 F.3d 825, 830 (8th Cir. 2008) ("There is no indication that the ALJ would have decided differently ... and any error by the ALJ was therefore harmless."); and *Hensley v. Barnhart*, 352 F.3d 353, 357 (8th Cir. 2003) (holding that applying the incorrect grid rule is harmless error when a claimant is not disabled under the proper rule). Here, even if the ALJ did make an error in citing to the medical record regarding Dr. Lavender, there is no indication that the ALJ would have made a different determination based on substantial evidence in the record as a whole. The ALJ concluded Dr. Lavender's opinion was not consistent with the record as a whole, a conclusion this Court finds

is supported by the record. Further, while Dr. Lavender did in fact see Plaintiff on three occasions, his records were coordinated through his attending physicians, Dr. Lauriello and Dr. Parvez. Specifically, the ALJ references “there is mention of his name [Dr. Lavender] in the claimant’s records,” but states it “does not appear to be any actual records from Dr. Lavender.” It appears from the record before the Court, the ALJ may have believed the medical records were those of Dr. Lavender’s attending physicians and thus mistakenly made reference to the absence of records from Dr. Lavender. Regardless, the Court finds that the ALJ’s determination is supported by substantial evidence in the record as a whole.

Conclusion

For the reasons set forth herein, the Court finds there is substantial evidence on the record as a whole to support the ALJ’s determination. Accordingly, the Commissioner’s decision denying benefits is **AFFIRMED**.

IT IS SO ORDERED.

DATED: November 17, 2016

/s/ Douglas Harpool
DOUGLAS HARPOOL
UNITED STATES DISTRICT JUDGE